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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,923	06/25/2003	Steven E. Tivey	52493.000252	1791
21967	7590 10/12/2007 N & WILLIAMS LLP		EXAMINER	
INTELLECTUAL PROPERTY DEPARTMENT			MCCORMICK, GABRIELLE A	
1900 K STREE SUITE 1200	ET, N.W.	·	ART UNIT	PAPER NUMBER
	N, DC 20006-1109		3629	
			MAIL DATE	DELIVERY MODE
			10/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

1.	· · · · · · · · · · · · · · · · · · ·	Application No.	Applicant(s)			
		10/602,923	TIVEY ET AL.			
Office Action Summary		Examiner	Art Unit			
		Gabrielle McCormick	3629			
	The MAILING DATE of this communication app					
Period fo	or Reply					
WHIC - Exter after - If NC - Failu Any	ORTENED STATUTORY PERIOD FOR REPLY CHEVER IS LONGER, FROM THE MAILING DATE insions of time may be available under the provisions of 37 CFR 1.13 SIX (6) MONTHS from the mailing date of this communication. It is period for reply is specified above, the maximum statutory period were to reply within the set or extended period for reply will, by statute, reply received by the Office later than three months after the mailing ed patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION (6(a). In no event, however, may a reply be tim ill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE!	l. ely filed the mailing date of this communication. O (35 U.S.C. § 133).			
Status		ne .				
1)⊠	Responsive to communication(s) filed on 25 Ju	<u>ne 2003</u> .				
2a) <u></u> □	is action is FINAL . 2b)⊠ This action is non-final.					
3)	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
	closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.					
Dispositi	ion of Claims					
4) 🛛	4)⊠ Claim(s) <u>1-29</u> is/are pending in the application.					
	4a) Of the above claim(s) is/are withdrawn from consideration.					
5) Claim(s) is/are allowed.						
6)⊠	6)⊠ Claim(s) <u>1-29</u> is/are rejected.					
7)⊠	Claim(s) <u>27</u> is/are objected to.					
8)	Claim(s) are subject to restriction and/or	election requirement.				
Applicati	ion Papers					
9)[The specification is objected to by the Examine	•	·			
10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
Priority u	under 35 U.S.C. § 119					
12)	Acknowledgment is made of a claim for foreign	priority under 35 U.S.C. § 119(a)	-(d) or (f).			
a)	☐ All b)☐ Some * c)☐ None of:					
1. Certified copies of the priority documents have been received.						
2. Certified copies of the priority documents have been received in Application No						
3. Copies of the certified copies of the priority documents have been received in this National Stage						
application from the International Bureau (PCT Rule 17.2(a)).						
* See the attached detailed Office action for a list of the certified copies not received.						
Attachment(s)						
	e of References Cited (PTO-892) te of Draftsperson's Patent Drawing Review (PTO-948)	4) LInterview Summary Paper No(s)/Mail Da				
3) 🔯 Infor	mation Disclosure Statement(s) (PTO/SB/08) or No(s)/Mail Date 3/29/2004.	5) Notice of Informal P 6) Other:				

Application/Control Number: 10/602,923

Art Unit: 3629

DETAILED ACTION

Status of Claims

- 1. This action is in reply to the application filed on June 25, 2003.
- 2. Claims 1-29 are currently pending and have been examined.

Information Disclosure Statement

3. The Information Disclosure Statement filed on March 29, 2004 has been considered. An initialed copy of the Form 1449 is enclosed herewith.

Claim Objections

4. Claim 27 is objected to because of the following informalities: the claim does not end with a period. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 6. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim recites, "the percentage of the agent's business that is generated by the particular agent". This phrase is vague and indefinite because one cannot ascertain whether the particular agent and the agent refer to different agent. If the agent doesn't generate the agent's business, why is it called "the agent's business"?
- 7. Claim 12 also contains the phrase, "position rank of the particular agent". Does this limitation refer to a job position, the ranking place (i.e., first, second, etc.) of various agents, or perhaps a grade level within a given position (such as, Engineer I, Engineer II, etc.)?

Art Unit: 3629

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

- 9. Claims 1, 4, 6, 7, 10, 11, 13-17, 20-22, 24 and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Brodersen et al. (US Pat. No. 6,850,895 hereinafter referred to as "Brodersen").
- 10. Claims 1 and 26: Brodersen teaches a method and system for assigning resources to tasks using assignment rules. (Abstract). Tasks as defined to included "sales leads" (col. 1; lines 56-58). Specifically, Brodersen discloses:
 - obtaining a lead, the lead including lead information relating to a person interested in effecting a purchase; (col. 1; lines 56-58: "sales leads" and col. 3; lines 1-2 where the task is received as input)
 - loading the lead into a lead processing portion; (col. 3; lines 1-6: inputting the task and searching a database for rules and resources (i.e., an assignee for the task))
 - determining if the lead is auto-assignable; (col. 13; lines 3-9: the "auto-assign" function, when selected (providing the determination of auto-assignment) will assign an agent.
 Otherwise, a user can assign an agent manually from a pick list.)
 - assigning the lead to a sales agent; (col. 13; lines 3-9)
 - outputting the lead information over the network environment to a lead distribution portion, so
 as to be accessible to the sales agent. (col. 1; lines 52-55: the outputting is inherent in the
 ability of a sales rep to "effectively respond to potentially revenue-generating opportunities."
 Col. 8; lines 26: "server" provides the network environment).

Art Unit: 3629

11. Claim 4: Brodersen discloses a *call center* (Figure 6: "Siebel Call Center" (top left hand corner)) and *an appointment* (col. 6; lines 54-59: "automatically create a calendar activity for the scheduled assignment" (appointment)).

- **12.** Claim 6: Brodersen discloses a maximum value an agent's lead inventory. (col. 3; lines 43-45).
- 13. Claim 7: Brodersen discloses a current time period. (col. 9; lines 36-49: in order to schedule tasks based on durations and standard business hours, the number of tasks received in a time period must inherently be determined.)
- **14.** Claims 10 and 14: Brodersen discloses looking at a task "on-line". (col. 15; line 41).
- 15. Claim 11: Brodersen discloses
 - generating an agent score for each agent that is a candidate for assignment of the lead; (col.
 3: lines 15-16)
 - assigning the lead to the agent with the highest agent score, wherein the agent score being based on past performance of a respective agent. (col. 3; lines 59-60).
- 16. Claim 13: Brodersen discloses randomly assigning the lead between two agents that have the same agent score. (col. 3; lines 53-60: the combination of (i) when candidates have scores equal to the minimum score and (iii) choosing a random candidate.)
- 17. Claim 15: Brodersen discloses
 - generating a pool of candidate agents, which are selected from a collection of possible agents, that are eligible to work the lead based on the lead information; (col. 3; lines 53-56)
 - selecting a selected agent from the pool of candidate agents, the selected agent designated to work on the lead. (col. 3; lines 58-60).
- **18.** Claims 16 and 17: Brodersen discloses *endorsement* and *territory* information as part of *lead* information and agent assignment criteria. (col. 5; lines 62- 67: "Assignments may be exclusive assignments, such as exclusive territories, or exclusive customer sets.").
- 19. Claims 20 and 24: Brodersen discloses a first wave of leads that is assigned prior to subsequent waves of leads, wherein the lead processing portion determines in which wave a lead is assigned based on the lead information. (col. 12; lines 2-13 where "Batch ID" (wave code) determines the

Art Unit: 3629

wave based on the "Object ID" (*lead*). It is inherent that batches are assigned at different times, therefore producing *subsequent waves*.)

20. Claims 21 and 22: Brodersen discloses endorsed leads (col. 5; lines 62-67); and A-leads and B-leads as different categories of tasks (col. 8; lines 15-19: "all unassigned service requests" (A) and "all service requested assigned to a terminated employee" (B).)

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

- 22. <u>Claims 2 and 27</u> are rejected under 35 U.S.C. 103(a) as being unpatentable over Brodersen et al. (US Pat. No. 6,850,895 hereinafter referred to as "Brodersen") in view of Hollister (US Pub. No. 2003/0229504).
- 23. Claims 2 and 27: Brodersen discloses the method and system of claims 1 and 26. Brodersen does not disclose determining if the lead is an agent generated lead, the agent generated lead resulting from efforts by the sales agent.
- **24.** Hollister, however, discloses leads generated by an agent (para. [0023]).
- 25. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included agent generated leads, as disclosed by Hollister in the system disclosed by Brodersen, for the motivation of providing a method of ensuring that the agent who generated the lead will work the lead (Hollister; para. [0024]).

Application/Control Number: 10/602,923

Art Unit: 3629

- 26. Claims 3, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brodersen et al. (US Pat. No. 6,850,895 hereinafter referred to as "Brodersen") in view of Melchione et al. (US Pat. No. 5,966,695 hereinafter referred to as "Melchione").
- 27. Claim 3: Brodersen discloses transferring leads (col. 8; line 9) and assigning leads based on territories (col. 7; lines 22-25). Brodersen does not disclose transferring from one region to another.
- 28. Melchione, however, discloses "campaign load balancing" where leads are transferred from one branch to another (col. 35; lines 8-12) and "branch load balancing" where "new" leads versus "in progress" leads are indicated. (col. 34; lines 64-67).
- 29. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included transferring leads between territories, as disclosed by Melchione, in the system disclosed by Brodersen, for the motivation of redistributing leads "evenly to all branches based upon work loads" (Melchione; col. 35; lines 10-11).
- 30. Claim 18: Brodersen discloses assigning leads to agents (col. 1; lines 46-55). Brodersen does not disclose determining whether telemarketing has priority over the lead.
- Melchione, however, discloses "the list of leads is sent directly to the CCIS for telemarketing" (col. 7; lines 62-63) and by-passing the CCIS when a flag is present to guarantee that those flagged leads will be assigned directly to the personal banker for that customer. (col. 31; lines 13-18).
- 32. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included flagging leads to go to a sales agent in place of a call center, as disclosed by Melchione, in the system disclosed by Brodersen, for the motivation of benefiting the customer by dealing with only one personal banker. (Melchione; col. 31; lines 18-20).
- 33. Claim 19: Brodersen discloses a maximum workload threshold for individual candidates for task assignment (col. 3; lines 44-46). Brodersen does not disclose applying this threshold to call center as a criteria for assignment of leads. Melchione discloses balancing the workloads of different branches (col. 35; lines 5-12) where the CCIS is located (col. 8; lines 20-26: CCIS

(telemarketing) operates from workstations located in the branches). This teaches that Melchione balances the workloads of the telemarketing facilities.

- 34. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a balancing telemarketing facility workloads, as disclosed by Melchione, in the system disclosed by Brodersen, for the motivation of routing leads quickly and seamlessly to the team who are responsible for follow-up such that potentially revenue generating opportunities are not missed. (Brodersen; col. 1; lines 46-55). Using a workload threshold is a means of controlling the expected response time to a task.
- 35. Claims 5, 8, 9, 23, 25 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brodersen et al. (US Pat. No. 6,850,895 hereinafter referred to as "Brodersen") in view of Schultze (US Pat. No. 7,047,206).
- 36. Claim 5: Brodersen discloses previously worked leads (col. 15; lines 52-56: employee is promoted and their task must be reassigned). Brodersen does not disclose determining if a resurrection date of the lead has been reached.
- 37. Schultze, however, discloses a method of "limiting the amount of time that a lead is available exclusively to the reseller." (col. 2: lines 46-47). Schultze further discloses determining "whether the processing time limit has expired" (col. 6; lines 40-43) and "a deadline" (col. 6; line 40). Schultze's system therefore teaches a resurrection date in the sense that the lead was made unavailable for a period of time while it was held exclusively by the reseller until a deadline (resurrection date) when the lead becomes available once again.
- 38. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a resurrection date, as disclosed by Schultze, in the system disclosed by Brodersen, for the motivation of minimizing the "risk of reducing the company's good will because a lead is not properly or quickly contacted..." (Schultze; col. 1; lines 48-50).

Art Unit: 3629

39. Claim 8 and 28: Brodersen discloses calculating agent scores based on criteria (col. 3; lines 14-16) including a maximum task workload (col. 3; lines 43-46). Brodersen does not disclose basing the score in part on leads converted to sales.

- 40. Schultze, however, discloses reports including, "the number of leads converted to sales, the number of leads in active use" (col. 8; line 65 col. 9; line 1). Schultze further discloses that prior to assigning leads, the reseller is prescreened and may be denied additional leads if there are "too many outstanding selected and non-processed leads" (col. 5; lines15-28)
- 41. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included tracking leads converted to sales, as disclosed by Schultze, in the system disclosed by Brodersen, for the motivation of providing the status and history of leads. (Schultze; col. 8; line 60-62).
- **42.** Brodersen in view of Schultze does not teach that assigning leads is further based on converted leads.
- 43. However, is inherent that in calculating a revised workload, as tasks are completed, they do not continue to count in the current workload inventory. Therefore, "leads converted to sales" would no longer be counted against an agent for the purposes of assignment of a new task in a current workload.
- 44. Claim 9: Brodersen discloses "Lead Quality" as a criterion in workload assignment. (col. 7; line 24). Brodersen further teaches the use of weightings (col. 7; lines 9-12). This disclosed combination of weighting and lead quality teaches a premium associated with the leads varies between different leads.
- **45.** Claims 23 and 25: Brodersen discloses the limitations of claims 20 and 22. Brodersen does not disclose *the age* of the lead.
- **46.** Schultze, however, discloses many of the leads become cold by the time they are contacted.
- 47. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included considering the age of the lead during assignment, as disclosed by Schultze, in the system disclosed by Brodersen, for the motivation of reducing the number of

Art Unit: 3629

leads that become cold by quickly matching sources of leads with salesmen who are interested in utilizing a lead. (Schultze; col. 2; lines 40-44).

- 48. <u>Claims 12 and 29</u> are rejected under 35 U.S.C. 103(a) as being unpatentable over Brodersen et al. (US Pat. No. 6,850,895 hereinafter referred to as "Brodersen") in view of Schultze (US Pat. No. 7,047,206) in view of Hollister (US Pub. No. 2003/0229504).
- 49. Claim 12: Brodersen discloses ranking employees, positions, and sales territories to assign the most knowledgeable employees or positions to handle tasks. (col. 6; lines 27-30). Brodersen does not disclose a conversion of leads to sales or the percentage of the agent's business that is generated by the particular agent.
- 50. Schultze discloses reports including, "the number of leads converter to sales (col. 8; lines 65 –68).
- 51. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included tracking leads converted to sales, as disclosed by Schultze, in the system disclosed by Brodersen, for the motivation of providing the status and history of leads. (Schultze; col. 8; line 60-62).
- 52. Hollister discloses that an agent gets all (therefore 100%) of the leads generated by that agent's efforts (such as by paying for advertisement) (para. [0023]).
- 53. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the percentage of agent generated leads, as disclosed by Hollister in the system disclosed by Brodersen, for the motivation of providing a method of ensuring that the agent who generated the lead will work the lead (Hollister; para. [0024]).

54. Claim 29: Brodersen discloses

obtaining a lead, the lead including lead information relating to a person interested in effecting a purchase; (col. 1; lines 56-58: "sales leads" and col. 3; lines 1-2 where the task is received as input)

Application/Control Number: 10/602,923

Art Unit: 3629

- loading the lead into a lead processing portion; (col. 3; lines 1-6: inputting the task and searching a database for rules and resources (i.e., an assignee for the task))
- determining if the lead is auto-assignable; (col. 13; lines 3-9: the "auto-assign" function,
 when selected (providing the determination of auto-assignment) will assign an agent.
 Otherwise, a user can assign an agent manually from a pick list.)
- assigning the lead to a sales agent; (col. 13; lines 3-9)
- outputting the lead information over the network environment to a lead distribution portion, so
 as to be accessible to the sales agent; (col. 1; lines 52-55: the outputting is inherent in the
 ability of a sales rep to "effectively respond to potentially revenue-generating opportunities."
 Col. 8; lines 26: "server" provides the network environment)
- 55. Brodersen does not disclose determining if the lead is an agent generated lead, the agent generated lead resulting from efforts by the sales agent.
- **56.** Hollister, however, discloses leads generated by an agent (para. [0023]).
- 57. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included agent generated leads, as disclosed by Hollister in the system disclosed by Brodersen, for the motivation of providing a method of ensuring that the agent who generated the lead will work the lead (Hollister; para. [0024]).
- 58. Brodersen discloses previously worked leads (col. 15; lines 52-56: employee is promoted and their task must be reassigned). Brodersen does not disclose determining if a resurrection date of the lead has been reached.
- 59. Schultze, however, discloses a method of "limiting the amount of time that a lead is available exclusively to the reseller." (col. 2: lines 46-47). Schultze further discloses determining "whether the processing time limit has expired" (col. 6; lines 40-43) and "a deadline" (col. 6; line 40). Schultze's system therefore teaches a resurrection date in the sense that the lead was made unavailable for a period of time while it was held exclusively by the reseller until a deadline (resurrection date) when the lead becomes available once again.

Art Unit: 3629

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a resurrection date, as disclosed by Schultze, in the system disclosed by Brodersen, for the motivation of minimizing the "risk of reducing the company's good will because a lead is not properly or quickly contacted..." (Schultze; col. 1; lines 48-50).

- 61. Brodersen discloses calculating agent scores based on criteria (col. 3; lines 14-16) including a maximum task workload (col. 3; lines 43-46). Brodersen does not disclose basing the score in part on leads converted to sales.
- 62. Schultze, however, discloses reports including, "the number of leads converted to sales, the number of leads in active use" (col. 8; line 65 col. 9; line 1). Schultze further discloses that prior to assigning leads, the reseller is prescreened and may be denied additional leads if there are "too many outstanding selected and non-processed leads" (col. 5; lines15-28)
- 63. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included tracking leads converted to sales, as disclosed by Schultze, in the system disclosed by Brodersen, for the motivation of providing the status and history of leads. (Schultze; col. 8; line 60-62).
- 64. Brodersen in view of Schultze does not teach that assigning leads is further based on converted leads.
- 65. However, is inherent that in calculating a revised workload, as tasks are completed, they do not continue to count in the current workload inventory. Therefore, "leads converted to sales" would no longer be counted against an agent for the purposes of assignment of a new task in a current workload.

Provisional Double Patenting

66. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application

Art Unit: 3629

claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., In re Berg, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

- 67. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.
- 68. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer.

 A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).
- Claims 1-29 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-19 of copending Application No. 10/602592, claims 1-20 of Application No. 10/602593, claims 1-20 of Application No. 10/602594 and claims 1-25 of Application No. 10/602707. Although the conflicting claims are not identical, they are all supported by near duplicate disclosures. The differences between the five disclosures is minimal and as such, the subject matter claimed in the instant application is fully disclosed in the referenced copending applications and would be covered by any patent granted on either copending application since the referenced copending applications and the instant application are claiming the common subject matter of systems and methods for processing, validating, assigning, distributing and managing sales leads. Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application.
- **70.** This is a <u>provisional</u> obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Art Unit: 3629

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should

be directed to Gabrielle McCormick whose telephone number is 571-270-1828. The examiner can

normally be reached on Monday - Thursday (5:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John

Weiss can be reached on 571-272-6812. The fax phone number for the organization where this

application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application

Information Retrieval (PAIR) system. Status information for published applications may be obtained from

either Private PAIR or Public PAIR. Status information for unpublished applications is available through

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or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-

1000.

Gabrielle McCormick Patent Examiner Art Unit 3629

JOHN G. WEISS
SUPERVISORY PATENT EXAMINER

mich

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